



no clear error in the original sentence.<sup>1</sup> Accordingly, I concluded the Court lacked jurisdiction and denied her motion seeking a reduction of her sentence. [ECF No. 13].

On November 30, 2010, Clark filed a letter *pro se* requesting that the Court amend her sentence to reflect that a portion of her sentence include six months at a half-way house and six months of home incarceration, pursuant to the Second Chance Act, 18 U.S.C. § 3624. [ECF No. 15]. For the reasons that follow, Clark's motion will be denied.

The Second Chance Act provides that, when a prisoner nears the end of his or her prison term:

The Bureau of Prisons shall, to the extent practicable, ensure that a prisoner serving a term of imprisonment spends a portion of the final months of that term (not to exceed 12 months), under conditions that will afford that prisoner a reasonable opportunity to adjust to and prepare for the reentry of that prisoner into the community. Such conditions may include a community correctional facility.

18 U.S.C. § 3624(c)(1); see also Woodall v. Federal Bureau of Prisons, 432 F.3d 235, 240 (3<sup>rd</sup> Cir. 2005). This provision vests the BOP, and not the courts, with authority over an inmate's pre-release custody, including home confinement. See United States v. Smith, 2007 WL 1412069 at \*1 (W.D.Pa. 2007) ("The plain meaning of the statute, however, does not give *the sentencing court* the authority to order, as petitioner requests, that a prisoner spend a certain amount of time in home confinement.") (emphasis in original); United States v. Shipley, 286 F. Supp. 2d 499, 500 (W.D.Pa. 2003) ("[P]re-release custody placement ... is a matter committed to the authority of the Bureau of Prisons."). Consequently, this Court has no authority to amend Clark's sentence and order placement pursuant to this provision. Smith, 2007 WL 1412069 at \*1.

Moreover, in the event that Clark may seek to challenge any decision by the BOP in connection with the Second Chance Act,<sup>2</sup> such claim must be raised by filing a motion pursuant

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<sup>1</sup>When Clark was sentenced, Rule 35(a) of the Federal Rules of Criminal Procedure provided, in pertinent part: "(a) **Correcting Clear Error.** Within 7 days after sentencing, the court may correct a sentence that resulted from arithmetical, technical or other clear error." Fed.R.Crim.P. 35(a). On December 1, 2009, the Rule was amended to provide for a fourteen-day time limit. Fed.R.Crim.P. 35(a) (2009); United States v. Morales, 2010 WL 704252 at \*2 n.1 (W.D.Pa. 2010).

<sup>2</sup>The BOP has not made a recommendation for Clark's length of Residential Reentry Center placement because her "good credit time" release date is not until July 17, 2012. See Government's Response, p. 5 n.1.

to 28 U.S.C. § 2241 and must be filed in the district where the inmate is confined. See Woodall, 432 F.3d at 243-44 (holding that a federal prisoner's challenge to the BOP's decision regarding placement is a challenge to the execution of a sentence cognizable under § 2241); United States v. Matthews, 2010 WL 4388067 at \*2 (W.D.Pa. 2010) (citing cases).<sup>3</sup>

Accordingly, on this 24<sup>th</sup> day of February, 2011, for the reasons set forth above,  
IT IS HEREBY ORDERED that Clark's Motion to Amend Sentence [ECF No. 15] is DENIED.

/s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record.

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<sup>3</sup>Clark is presently incarcerated at the Federal Prison Camp in Alderson, West Virginia. See Motion p. 2.